

REMARKS

In response to the Office Action mailed June 15, 2004, Applicants canceled claims 1-14 and 24-36. Claims 15-23 are presented for examination.

The Examiner stated that the listing of references in the specification is not a proper information disclosure statement. Applicants submit herewith an information disclosure statement, which, in combination with the information disclosure statement filed November 20, 2003, cites all the references listed in the specification.

The Examiner objected to claims 21-23, alleging that the claims are of improper dependent form for failing to further limit the subject matter of the previous claims. However, claims 21-23 clearly further limit the claims from which they depend. Applicants therefore request that the objections to claims 21-23 be withdrawn.

The Examiner rejected claims 15 and 21-23 under 35 U.S.C. §103(a) as obvious over Wallach. But, Wallach does not disclose or suggest the methods covered by claims 15 and 21-23. For example, Wallach does not disclose or suggest a three dimensional structure of TNFR-1 DD, as required by these claims. Further, the Examiner is reminded that:

[A] proper analysis under §103 requires ... consideration of ... whether the prior art would also have revealed that in ... making or carrying out [the invention], those of ordinary skill in the art would have a reasonable expectation of success.  
In re Vaeck, 947 F.2d 488, 493 (Fed. Cir. 1991)

Here, the Examiner has not demonstrated that Wallach would provide a reasonable expectation of success. As known to those skilled in the art, determining the three dimensional structure of TNFR-1 DD is not a trivial matter, and it cannot be fairly stated that Wallach's silence regarding such a three dimensional structure reveals that, based on Wallach's disclosure, one skilled in the art would have had a reasonable expectation of success in determining the three dimensional structure of TNFR-1 DD. Applicants therefore request reconsideration and withdrawal of the rejection of claims 15 and 21-23 under 35 U.S.C. §103(a).

The Examiner rejected claims 16-20 under 35 U.S.C. §103(a) as obvious over Brunger or Scanlon, alone or in view of Wallach. Claims 16-20 require determining an active site of TNFR-1 DD from a three dimensional structure of TNFR-1 DD. However, none of the references cited

by the Examiner in making this rejection, either alone or in combination, disclose or suggest determining an active site of TNFR-1 DD from a three dimensional structure of TNFR-1 DD. Thus, Applicants request reconsideration and withdrawal of the rejection of claims 16-20 under 35 U.S.C. §103(a).

Applicants believe the application is in condition for allowance, which action is requested.

No fees are believed to be due. Please apply any necessary charges or credits to deposit account 06-1050, with reference to Attorney Docket No. 16163-012001.

Respectfully submitted,

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